

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA)	
)	
v.)	Case No. 16-cr-10137-LTS
)	
KENNETH BRISSETTE and)	
TIMOTHY SULLIVAN)	
_____)	

DEFENDANTS' JOINT MOTION TO DISMISS

Pursuant to Federal Rule of Criminal Procedure 12(b)(3) and the Fifth and Sixth Amendments to the U.S. Constitution, defendants Kenneth Brissette (“Mr. Brissette”) and Timothy Sullivan (Mr. Sullivan”) (collectively, “defendants”) jointly move the Court to dismiss for the Superseding Indictment that was returned in the above-captioned case on June 28, 2016 (“Superseding Indictment”) for failure to state an offense.

In support of this Motion, defendants state that despite charges that they conspired to extort and extorted Company A in violation of the Hobbs Act, the Superseding Indictment does not allege that they threatened – explicitly or implicitly – to do anything to Company A or sought or received any money from Company A, or that Company A’s owners were in fact fearful that either defendant would cause harm to their company. Without these critical facts and as more fully set out in the accompanying Memorandum in Support of this Motion, the Superseding Indictment fails as a matter of law.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

Undersigned counsel hereby certifies that the parties have conferred in an effort to narrow the issues raised by this motion.

DATED: January 24, 2017

Respectfully submitted,
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By his attorneys,

/s/ William H. Kettlewell
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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on January 24, 2017.

/s/ William H. Kettlewell